

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re

ELECTRONIC MEANS FOR FILING,
SIGNING, AND VERIFICATION OF
DOCUMENTS

GENERAL ORDER

Revised

Electronic Filing Procedures
Applicable to All Bankruptcy
Cases and Adversary Proceedings
Filed On or After January 1, 2003

WHEREAS, Federal Rule of Civil Procedure (“FRCP”) 83 and Federal Rules of Bankruptcy Procedure (“FRBP”) 5005(a)(2) and 9029 authorize this court to establish practices and procedures for the filing, signing and verification of documents by electronic means; and

WHEREAS, by General Order #462, dated August 24, 2001, the court established such practices and procedures; and

WHEREAS, a proposal as to the adoption of revised Administrative Procedures for Filing, Signing and Verifying Documents by Electronic Means (“Electronic Filing Procedures”) has been reviewed by the court; and

WHEREAS, the Electronic Filing Procedures are consistent with and enhance the responsibility of the Clerk of the Court in the control of the court’s docket under FRBP 5003 and 5005, including safeguarding the integrity of the court’s docket; and

WHEREAS, the Electronic Filing Procedures do not impose fees inconsistent with the present fee structure adopted by the Judicial Conference of the United States pursuant to 28 U.S.C. §§ 1913, 1914, 1926 and 1930; and

WHEREAS, the Electronic Filing Procedures allow for the obtaining of a password by attorneys, which password identifies the party filing electronically; and

WHEREAS, the Electronic Filing Procedures provide for the signing of electronically filed documents in a manner consistent with terms set forth in Local Rule of Bankruptcy Procedure (“LRBP”) 9011-1(b); and

WHEREAS, the Electronic Filing Procedures make adequate provision for the filing, review and retrieval of documents by parties who are not able to access the Electronic Filing System (the “System”) from a remote location; and

WHEREAS, the Electronic Filing Procedures do not impair the ability of the Clerk of the Court to discharge statistical reporting responsibilities both to the court and the Administrative Office of the United States Courts; and

WHEREAS, the Electronic Filing Procedures are consistent with the notice requirements of FRBP 2002;

NOW, THEREFORE, IT IS ORDERED that:

1. The Electronic Filing Procedures, attached as Exhibit 1 to this order, are approved by the court.
2. Electronic files, consisting of the images of documents filed in cases or proceedings and documents filed by electronic means, are designated as and shall constitute the official record of the court together with the other records kept by the court.
3. No attorney or other person shall knowingly permit or cause to permit the attorney’s password to be utilized by anyone other than an authorized member or employee of the attorney’s law firm.
4. The initials of the attorney’s first and last names and the last four digits of the social security number of the attorney who is signing an electronically filed document in accordance with Part II(i) of the Electronic Filing Procedures, shall constitute the signature of that attorney for purposes of FRBP 9011 and LRBP 9011-1.

5. The electronic filing of a document in accordance with the Electronic Filing Procedures shall constitute entry of that document on the docket kept by the clerk under FRBP 5003, and shall be deemed accepted for filing by the clerk's office.

6. The Office of the Clerk shall enter all applicable orders, decrees, judgments and proceedings of the court in accordance with the Electronic Filing Procedures, which shall constitute entry of the order, decree, judgment or proceeding on the docket kept by the Clerk under FRBP 5003 and for purposes of FRBP 9021.

7. The request for and receipt of a System password from the court shall constitute a request for electronic service by the attorney receiving the password pursuant to FRBP 9036, and except as otherwise provided in the Electronic Filing Procedures, a waiver by such attorney of the right to receive notice and service conventionally.

8. The original of this order shall be filed in accordance with the Electronic Filing Procedures.

9. Amendments to this order or the Electronic Filing Procedures may be entered from time to time in keeping with the needs of the court.

10. This order shall become effective on January 1, 2003, and shall apply to all bankruptcy cases and adversary proceedings filed on or after such effective date. Only proofs of claim are to be filed in paper form.

Dated: Brooklyn, New York
December 26, 2002

/s/ Conrad B. Duberstein
CONRAD B. DUBERSTEIN
Chief United States Bankruptcy Judge

EXHIBIT 1

REVISED
ADMINISTRATIVE PROCEDURES
FOR ELECTRONICALLY FILED CASES

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

Exhibit to General Order

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ADMINISTRATIVE PROCEDURES

I. REGISTRATION FOR THE ELECTRONIC FILING SYSTEM

A. Designation of Cases. All bankruptcy cases and adversary proceedings filed on or after January 1, 2003 shall be assigned to the Electronic Case Filing System.

B. Passwords. Each attorney admitted to practice in this court shall be entitled to one System password to permit the attorney to participate in the electronic retrieval and filing of documents in accordance with the System. Application for a password is governed by paragraphs I.C.1 and 2.

C. Registration.

1. To register to use the System, attorneys must submit a password application, in the form attached. A duplicate copy of the attached form may be used.

2. Completed password applications are to be mailed or delivered to the Office of the Clerk, United States Bankruptcy Court, Eastern District of New York, Long Island Federal Courthouse, 290 Federal Plaza, Central Islip, New York 11722, Attn: Electronic Case Filing System Registration.

3. Upon registering, attorneys will receive an envelope from the Office of the Clerk, clearly marked "Personal and Confidential," containing the attorney's assigned

System password. Attorneys may request an alternative means of delivery of the password by telephoning the Office of the Clerk.

4. Attorneys may find it desirable to change their court assigned password periodically. This can be done by following instructions in the CM/ECF Attorney Manual, available at the court's Web site at www.nyeb.uscourts.gov. In the event an attorney believes that the security of an existing password has been compromised and a threat to the System exists, the attorney shall give immediate telephonic notice to the Clerk of Court, Chief Deputy Clerk or Systems Department Manager, confirmed by facsimile, to prevent access to the System through use of that password.

II. ELECTRONIC FILING AND SERVICE OF DOCUMENTS

A. Filing.

1. All motions, pleadings, memoranda of law, or other documents required to be filed with the court in connection with a case, other than proofs of claim and certain exceptions specified in paragraph III below, shall be electronically filed on the System. Within 24 hours of the electronic filing, a hard copy shall be provided to chambers, which copy is to be marked "Chambers Copy" in the top center of the title page. The hard copy is to be filed with the Office of the Clerk, to the attention of the appropriate judge's chambers. The date and time of the *electronic* filing shall be the official date and time of filing of the document.

2. Attorneys who do not file electronically will be required to submit all filings to the court on diskette in PDF format.

3. All documents that form part of a motion or pleading, and which are being filed at the same time and by the same party, may be electronically filed together under one docket number, i.e., the motion and a supporting affidavit or application, with the exception of a memorandum of law. A memorandum of law must be filed separately and specified as related to the motion or pleading.

4. Persons filing documents that reference exhibits which are not in electronic form shall scan and electronically file excerpts of the exhibits that are directly germane to the matter under consideration by the court. Such filings must be clearly and prominently identified as excerpts, must not exceed twenty (20) pages, and state that the entire document is in the possession of the filing party. The entire exhibit must be made available forthwith to counsel and the court on request, and must be available in the courtroom at any hearing pertaining to the matter. Persons filing excerpts of exhibits pursuant to these Procedures do so without prejudice to their right to file additional excerpts or the entire exhibit with the court at any time. Opposing parties may file additional excerpts if they believe that they are germane.

5. Title of Docket Entries. The person electronically filing a document is responsible for designating a title for the document using one of the main categories provided in the System, i.e., motion, application, etc.

6. Payment of Filing Fees. An application for authorization to pay filing fees by credit card will be made as part of the attorney's password application form.

7. Electronic Filing in Non-Electronic Case. Documents filed electronically in a non-electronic case will be purged from the database, with the associated docket event annotated "Entered in Error." The filer will be required to resubmit the document to the court in paper form. The document will be deemed officially filed as of the date and time of the court's receipt of the filing in paper form.

B. Service.

1. General Rule. Except as otherwise provided in paragraph 2 below, all documents required to be served shall be served in paper (i.e., "hard copy") form in the manner mandated by the applicable law and rules.

2. Consent to Electronic Service. Whenever service is required to be made on a person who has requested, or is deemed to have requested, electronic notice in accordance with FRBP 9036 or paragraph 7 of the court's General Order on Electronic Filing Procedures, service may be made by serving the "Notice of Electronic Filing"

generated by the System by hand, facsimile or e-mail in the first instance, or by overnight mail if service by hand, facsimile or e-mail is impracticable.

3. Notwithstanding the foregoing, hard copies of documents or notices shall be served in the following circumstances:

(a) Service made in accordance with FRCP 4, FRCP 45, FRBP 7004 or FRBP 9016.

(b) Service made upon an agency of the United States, including the United States Attorney, the United States Trustee, or chambers, in accordance with the FRBP, LRBP or an order of the court.

(c) Notice served pursuant to FRBP 2002(a)(1).

(d) Upon the commencement of a case, service by counsel for the debtor of the petition, schedules and statement of affairs on the United States Trustee, all applicable governmental agencies and the trustee assigned to the case, where applicable.

4. Orders. All signed orders (including, without limitation, orders to show cause) shall be filed electronically by the court. To facilitate the review, execution and filing of a proposed order, the person presenting the proposed order shall provide the presiding judge with a 3.5 inch floppy disk containing the proposed order (in word processing, *not* PDF format), together with any document to be electronically filed in

connection therewith (in PDF format). Simultaneously, the presiding judge shall also be provided with a chambers copy of all such documents.

5. Notice of Electronic Filing Procedure, Adversary Proceedings. Upon issuance by the Office of the Clerk of the Summons and Notice of Pretrial Conference, the attorney for the plaintiff shall serve same along with a Notice of Electronic Filing Procedure upon all parties to the proceeding.

C. Signatures; Affidavits of Service.

1. Every petition, pleading, motion and other paper served or filed in accordance with the Electronic Filing Procedures shall include by way of signature the initials of the filing attorney's first and last name followed by the last four digits of the attorney's social security number. Additionally, an "electronic signature" in the form "s/Jane Doe" shall be included in every electronically filed document.

2. Petitions, lists, schedules, statements, amendments, pleadings, affidavits, stipulations and other documents which must contain original signatures, documents requiring verification under FRBP 1008, and unsworn declarations under 28 U.S.C. § 1746, shall be filed electronically and bear "electronic signatures." The hard copy of the originally executed document, and/or original exhibits, shall be maintained by the filer for two years after the entry of a final order terminating the case or proceeding to which the document relates. On request of the court, the filer must provide original documents for review.

3. Every order and judgment signed by the judge shall be filed electronically by the Clerk's Office at the direction of the court and bear an "electronic signature." The hard copy of the manually executed document shall be maintained by the Clerk until the entry of a final order terminating the case or proceeding to which the document relates.

III. DOCUMENTS FILED UNDER SEAL

A. Motion. A motion to file documents under seal (but not the documents themselves) shall be filed electronically. If the motion itself contains confidential information, the movant shall serve and file electronically a redacted version clearly marked as such, and submit an unredacted version in camera. If requested by the court, the movant shall deliver hard copies of the documents proposed to be filed under seal to the presiding judge for in camera review.

B. Order. The order of the court determining the motion shall be filed electronically by the court.

C. Copies. If the court grants the motion, in whole or in part, the movant shall deliver the following to the Clerk of the Court or Chief Deputy Clerk of the Court:

1. a hard copy of the documents to be filed under seal (the "sealed documents") and

2. a 3.5 inch floppy disk containing the sealed documents and the sealing order. The disk shall be submitted in an envelope or disk mailer, clearly labeled with the case name and number, and if applicable, the document number assigned to the sealed document.

3. Hard copies of the sealing order shall be attached to the hard copy of the sealed documents and to the 3.5 inch disk.

D. Clerk's Responsibilities. Unless otherwise ordered by the court, the Clerk of the Court shall file any documents ordered to be filed under seal conventionally and not electronically.

IV. PUBLIC ACCESS TO THE SYSTEM DOCKET

A. Internet Access. Any person or organization may access the System at the court's Internet site at: www.nyeb.uscourts.gov. Access to the System through the Internet site will be available using a password to retrieve the docket sheet and documents in a "read only" format. With the introduction of Electronic Case Filing, "Version 1," a password obtained from the Public Access to Electronic Court Records Center ("PACER") will be required by all users of the System. (See D. below and the court's web site for further information.) Information posted on the System shall not be downloaded for uses inconsistent with the privacy concerns of debtors and third parties.

B. Access at the Court. Documents filed on the System and case dockets are available for viewing in the Office of the Clerk during regular business hours. No password is required.

C. Conventional Copies and Certified Copies. Conventional copies and certified copies of electronically filed documents may be purchased at the Office of the Clerk, at Long Island Federal Courthouse, 290 Federal Plaza, Central Islip, New York, or the United States Bankruptcy Court, 75 Clinton Street, Brooklyn, New York during regular business hours. Fees for copying and certification shall be in accordance with 28 U.S.C. § 1930.

D. Access Charges. At such time as the Court implements charges required by the Judicial Conference of the United States, as set out in 28 U.S.C. § 1930, for the usage of electronic access to the Court's records, users of the System will be charged in accordance with the fees and procedures established by the Administrative Office of the United States Courts.

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
ELECTRONIC CASE FILING SYSTEM
ATTORNEY PASSWORD APPLICATION**

LIVE SYSTEM

I, _____, swear or affirm that I am a member in good standing of the Bar of the State of _____. By submitting this application and receiving a password, I agree to adhere to the court's order authorizing electronic case filing, any supplements and/or amendments thereto and the rules promulgated for the court's ELECTRONIC CASE FILING (ECF) SYSTEM. I am providing the following information as a condition of receiving my password:

Attorney Code (first & last name initials/last 4 digits of social security #): _____

Attorney Name: _____

Firm Name: _____

Address: _____

Phone #: _____ FAX #: _____

Internet E-Mail Address for Service: _____

Class Training Completion Date: _____

I have read and understand the following rules:

1. I will employ the Electronic Case Filing System for cases filed in the United States Bankruptcy Court for the Eastern District of New York.
2. I will meet all hardware and software requirements disseminated by the court for system use. I understand that the current minimum requirements for filing documents are: a personal computer running a standard Windows platform (Windows 98/Me/NT/2000/XP); an Internet provider using Point to Point Protocol (PPP) for dial-up service, or offering DSL or cable service; Netscape Navigator 4.7x or higher or Microsoft Internet Explorer 5.5 or higher; Adobe Acrobat 4.01 or higher [to convert word processor format documents to portable document format (PDF)]; and a document scanner.
3. Each use of my password for filing documents will meet the requirements of Fed. R. Civ. P. 11, Fed. R. Bankr. P. 9011 and Local Bankruptcy Rule 9011-1. I understand that the use of my password together with my electronic signature constitutes my signature on the document being submitted. If I submit a document for another party, I understand it is my responsibility to maintain a copy of that document bearing the signer's signature in my records.
4. I agree to protect and secure the confidentiality of my password. Therefore, if I have reason to believe that my password has been compromised, it is my responsibility to immediately notify the court in writing. Moreover, it is also my responsibility to immediately inform the court of any change in my firm affiliation, addresses, telephone, fax or E-mail address.

5. I understand that the issuance of a password to me constitutes a waiver of conventional service pursuant to the court's Electronic Filing Procedures General Order. I agree to accept a Notice of Electronic Filing by hand, facsimile, first class mail or authorized e-mail in lieu of conventional service. Moreover, I will use the automatic E-mail notification feature of the Electronic Case Filing System wherever feasible.
6. Notwithstanding No. 5 herein, conventional (paper) service is required in all non-electronic filings as well as on the United States and its agencies, and on foreign, state or local governments, in full compliance with Rules 2002(j) and 7004(b)(4), (5) and (6) of the Federal Rules of Bankruptcy Procedure and Rule 4(i) and (j) of the Federal Rules of Civil Procedure.
7. In compliance with the Electronic Filing Procedures General Order, I understand that if documents being submitted electronically have lengthy exhibits, the filing of relevant excerpts of the exhibits is preferred and permitted without prejudice to my right to file additional excerpts or the complete exhibit with the court at any time.
8. In compliance with the Electronic Filing Procedures General Order, once I receive my password, I will make every reasonable effort to file documents electronically. If I am unable to file electronically, documents will be submitted to the court on diskette in PDF format. Paper filings received at the court will be scanned by the delivering party.
9. I understand that receipt of a password and access to the ECF Filing System is contingent upon my completing the Eastern District Bankruptcy Court Attorney Password Application, the Credit Card Blanket Authorization Form and the court training class, and therefore authorizing the court to bill my firm for any transactions requiring a fee consistent with the ECF Filing System and the Rules established by this Court.
10. I understand that until an interactive credit card process exists for the ECF Filing System which will allow for the entry of my credit card information upon docketing of a fee related filing, that my credit card will be automatically charged the applicable filing fee by the court after the filing.

Date: _____

Attorney Applicant Signature

Please return to:

United States Bankruptcy Court
290 Federal Plaza
P.O. Box 9013
Central Islip, New York 11722-9013

FOR COURT OFFICE USE ONLY:

Date application received: ____/____/____

Date access permitted: ____/____/____

Date reviewed for compliance: ____/____/____

Authorized by: _____

**United States Bankruptcy Court
Eastern District of New York**

Credit Card Blanket Authorization Form

I hereby authorize the United States Bankruptcy Court for the Eastern District of New York to charge the main credit card or the alternate credit card listed below for payment of fees, costs, and expenses which are incurred by myself or any member or employee of the law firm, partnership, or professional corporations stated below. I certify that I am authorized to sign this form on behalf of my law firm.

(Please indicate which card is to be the main card and the alternate card)

____MasterCard No._____	Exp. Date: _____
____Visa Card No._____	Exp. Date: _____
____Discover Card No._____	Exp. Date: _____
____American Express No._____	Exp. Date: _____
____Diners Club No._____	Exp. Date: _____

Credit Cardholder's Name:_____

**NAMES OF INDIVIDUALS AUTHORIZED TO USE ACCOUNT NUMBERS LISTED ABOVE FOR
PAYMENT OF FEES, COSTS, AND EXPENSES:**

_____	_____
_____	_____
_____	_____

Cardholder's Mailing Address:_____

City:_____ State:_____ Zip Code:_____

Law Firm Name: _____

(Or name of sole practitioner)

Address: _____

Phone No: _____ Fax No: _____

This form will be kept on file in the clerk's office and will remain in effect until specifically revoked in writing. It is the responsibility of the law firm/company named above to submit a new form and notify the court of any changes to authorized users, a new expiration date when a credit card has been renewed, or if a card has been revoked, cancelled, or stolen.

Signature:_____ **Date:**_____

*Note: The card indicated above as the main card will be used for all transactions with this court unless otherwise specified by the authorized user.